



1616
200.94107CIP3

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Re: Application of: Benjamin Oshlack et al. #10
Serial No.: 09/598,324
Filed: June 20, 2000
For: **POWDER-LAYERED ORAL DOSAGE FORMS**
Examiner: Mina Haghighatian
Art Unit: 1616

**PETITION UNDER 37 CFR 1.181(a) REQUESTING WITHDRAWAL OF THE
HOLDING OF ABANDONMENT**

Assistant Commissioner for Patents
Washington, D.C. 20231

January 27, 2003

BOX OFFICE OF PETITIONS

Sir:

On January 15, 2003, the law firm of the undersigned attorney received a Notice of Abandonment dated January 10, 2003 from the U.S. Patent and Trademark Office with regard to the above-identified U.S. patent application, a copy of which is enclosed. This Notice of Abandonment stated that the application was being abandoned due to Applicants' failure to timely file a reply to an Office letter mailed on March 13, 2002.

I hereby certify that this document and any documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "first class mail" in an envelope addressed to: "Assistant Commissioner for Patents, Washington, D.C. 20231" on January 27, 2003.

DAVIDSON, DAVIDSON & KAPPEL, LLC

By: [Signature]

Applicants hereby petition the Assistant Commissioner for Patents under 37 C.F.R. § 1.171 to withdraw the holding of abandonment of this application on the grounds that the undersigned attorneys for Applicants never received an Office letter for this application and were thus never advised of Applicant's duty to reply or of the deadline for doing so.

The undersigned attorney hereby declares that thorough searches of the file jacket for the above-identified patent application and firm docket records were made, and these searches indicate that no Office letter dated March 13, 2002 was ever received by this law firm. As evidence of such, in accordance with M.P.E.P. § 711.03 (c), Applicants herewith submit a true copy of the docket record for the law firm Davidson, Davidson & Kappel, LLC, showing all replies docketed for the date (June 13, 2002), three months from the mailing date of the non-received Office letter dated March 13, 2002 (Exhibit A). This docket record even bears contemporaneous markings indicating fulfillment of certain of the docketed actions. However, the docket record does not show the due date for reply to non-received Office letter, indicating that the Office letter was never received.

Applicants, therefore, petition the Assistant Commissioner for Patents to withdraw the holding of abandonment for failure to timely reply to the Office letter dated March 13, 2002, because Applicants' attorneys never received a copy of any Office letter that would have informed them of the obligation to reply.

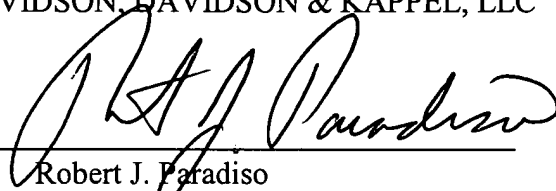
This petition is being filed within two months of the January 10, 2003 mailing date of the Notice of Abandonment from the U.S. Patent and Trademark Office. Thus, in accordance with 37 C.F.R. § 1.181(f), this petition is considered timely filed.

No fee is believed due. However if any additional fees are deemed to be due at this time, the Assistant Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By

A handwritten signature in black ink, appearing to read "Robert J. Paradiso", written over a horizontal line.

Robert J. Paradiso
Reg. No. 41,240

Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018
(212) 736 - 1940



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/598,324	06/20/2000	Benjamin Oshlack	200.94107CIP3	8764

7590 01/10/2003
DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018



EXAMINER

HAGHIGHATIAN, MINA

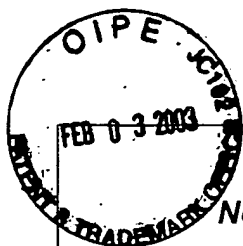
ART UNIT	PAPER NUMBER
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DATE MAILED: 01/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED
JAN 15 2003
DAVIDSON, DAVIDSON & KAPPEL



Notice of Abandonment

Application No.

09/598,324

Examiner

Mina Haghghatian

Applicant(s)

OSHLACK ET AL.

Art Unit

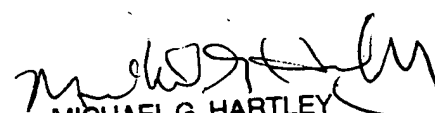
1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 13 March 2002.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d), is \$ _____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

The abandonment was discussed with Mr. Robert Paradiso in a telephone interview on 01/09/03.


MICHAEL G. HARTLEY
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/18/02 (W/1 MO. EXT.)	CMD/RJP	BSD	200.93112 CN	94118420.X			
13-Jun-02	INVITATION TO CORRECT DEFECTS DUE 6/20/02	CMD/RJP	BSD	332.1135 PCT	PCT/US02/12375		car	
13-Jun-02	APPROVE TEXT. DESIGNATE COUNTRIES & FILE DIVISIONAL BY 7/4/02	CMD/RJP	BSD	332.1014 EP	95943950.6			
13-Jun-02	INVITATION TO CORRECT DEFECTS DUE	CMD/RJP	BSD	332.1126 PCT	PCT/US02/12351		CAN	
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/27/02 (EXTENDIBLE BY 2 MONTHS)	CMD/RJP	BSD	208.1095 KR	99-7007713			✓
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/27/02 (W/1 MO. EXT.)	LBD	BSD	540.1004 CON2	10047060 1/14/02			
13-Jun-02	OFFICE ACTION RESPONSE DUE 7/4/02 (W/1 MO. EXT.)	CMD/RJP	BSD	228.1006	09/01220 11/27/00			
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/27/02 (3 MONTH DATE)	CMD/RJP	BSD	228.1012	09/979852 11/27/01			

200.93112 CN - Done

REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
13-Jun-02	OFFICE ACTION RESPONSE DUE 7/13/02 (EXTENDIBLE BY 2 MONTHS)	CSK/RJP	CER	332.94387 CA	2209125			
13-Jun-02	OFFICE ACTION RESPONSE DUE 7/4/02 (W/2 MO. EXT.)	CMD/RJP	CER	200.1034 CON2	09/930927 8/16/01			
13-Jun-02	OFFICE ACTION RESPONSE DUE 7/4/02 (W/2 MO. EXT.)	CMD/RJP	CER	200.1102 CP2	09/929236 11/5/01			
13-Jun-02	APPROVAL OF TEXT DUE 7/13/02	CMD	<i>as of 2</i> CMD	200.92515 EP DIV	96102992.3			
13-Jun-02	IDS DUE	CMD	CMD/DGK	540.1068	10/099461 3/13/02			
13-Jun-02	OFFICE ACTION RESPONSE DUE 7/13/02 (W/1 MO. EXT.)	CMD	CMD/FSA	800.1009	09/741236 12/20/00			
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/18/02 (3 MONTH DATE)	CMD	CMD/RJP	499.1001	09/792581 2/23/01			
13-Jun-02	FILE APPEAL BRIEF (W/2 MO. EXT.) [RE: NOP FILED 1/31/02]	CMD	CMD/RJP	476.1004	09/167634 10/6/98			

REMANDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
13-Jun-02	FILE MISSING PARTS DUE 7/4/02 (DEADLINE DATE)	CMD	CMD/RJP	332.1137	09/989304 11/20/01			
13-Jun-02	PROVISIONAL & CONVENTION YEAR ENDS 7/13/02	CSK	CSK	218.1009P	60/305054 7/13/01			
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/27/02 (3 MONTH DATE)	CSK	CSK/MBW	423.1024	09/701477 11/29/00			
13-Jun-02	INVITATION TO CORRECT DEFECTS DUE 6/14/02 (W/2 MO. EXT.)	CSK	CSK/SJM	218.1002 PCT	PCT/US02/00909			
13-Jun-02	INVITATION TO CORRECT DEFECTS DUE 6/16/02	CSK	CSK/SJM	218.1014 PCT	PCT/US02/10611			
13-Jun-02	RESPONSE TO PRELIM EXAMINATION DUE 6/15/02	LBD	CSK/SLA	540.1040 CN	00802513.4			
13-Jun-02	FILE IN HONG KONG BY 8/13/02?	LBD	CSK/SLA	540.1040 CN	00802513.4			
13-Jun-02	GRANT FEE DUE 6/22/02 (DEADLINE DATE)	CMD/RJP	DGK	200.1102 SG				



REMINDER DATE/ DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
13-Jun-02	GRANT FEE DUE 6/22/02 (DEADLINE DATE)	CMD/RJP	DGK	200.1113 SG				
13-Jun-02	IDS DUE	CMD	DGK	540.1068	10/099461 3/13/02			
13-Jun-02	FILE NEW APPLICATION BY 6/16/02	CSK	ERS/JMD	5012.1001	NEW APPLICATION			
13-Jun-02	OFFICE ACTION RESPONSE DUE 7/13/02 (W/1 MO. EXT.)	CMD	FSA	800.1009	09/741236 12/20/00			OK
13-Jun-02	FILE NEW APPLICATION BY 6/16/02	CSK/ERS	JMD	5012.1001	NEW APPLICATION			
13-Jun-02	FILE NEW APPLICATION BY 6/24/02	CSK/WCG	JMD	600.1228	NEW APPLICATION			
13-Jun-02	FILE MISSING PARTS DUE 6/17/02	CSK/WCG	JMD	521.1024	10/101786 3/20/02			
13-Jun-02	ISSUE FEE AND DRAWINGS DUE 6/17/02	CSK/WCG	JMD	487.1015	09/647904 2/1/01			

REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
13-Jun-02	FILE CORRECTIONS TO ASSIGNMENT	CSK/WCG	JMD	600.1181	10/002015 10/26/01			
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/27/02 (W/1 MO. EXT.)	LBD	LBD/BSO	540.1004 CON2	10/047060 11/14/02			
13-Jun-02	FILE MISSING PARTS DUE 6/14/02 (W/2 MO. EXT.)	LBD	LBD/MBW	436.1006	10/045851 11/7/01			
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/17/02	LBD	LBD/SLA	541.1002 EP	96909819.3			
13-Jun-02	FILE MISSING PARTS DUE 6/14/02 (W/2 MO. EXT.)	LBD	MBW	436.1006	10/045851 11/7/01			
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/27/02 (3 MONTH DATE)	CSK	MBW	423.1024	09/701477 11/29/00			
13-Jun-02	INVITATION TO CORRECT DEFECTS DUE 6/20/02	CMD/RJP	MMR	300.1016 PCT	PCT/US02/08306			
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/27/02 (3 MONTH DATE)	CMD/RJP	MMR	300.1002	09/765069 2/16/01			

REMINDER DATE/ DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
13-Jun-02	FILE APPEAL BRIEF (W/2 MO. EXT.) (RE: NOP FILED 1/31/02)	CMD	RJP	476.1004	09/167634 10/6/98			
13-Jun-02	FILE MISSING PARTS DUE 7/4/02 (DEADLINE DATE)	CMD	RJP	332.1137	09/989304 11/20/01			
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/18/02 (3 MONTH DATE)	CMD	RJP	499.1001	09/792581 2/23/01			
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/18/02 (W/1 MO. EXT.)	CMD	RJP/BSO	200.93112 CN	94118420.X			
13-Jun-02	INVITATION TO CORRECT DEFECTS DUE 6/20/02	CMD	RJP/BSO	332.1135 PCT	PCT/US02/12375			
13-Jun-02	APPROVE TEXT, DESIGNATE COUNTRIES & FILE DIVISIONAL BY 7/4/02	CMD	RJP/BSO	332.1014 EP	95943950.6			
13-Jun-02	INVITATION TO CORRECT DEFECTS DUE	CMD	RJP/BSO	332.1126 PCT	PCT/US02/12351			
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/27/02 (EXTENDIBLE BY 2 MONTHS)	CMD	RJP/BSO	208.1095 KR	99-7007713			

REMINDER DATE/ DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING D/
13-Jun-02	OFFICE ACTION RESPONSE DUE 7/4/02 (W/1 MO. EXT.)	CMD	RJP/BSO	228.1006	09/701220 11/27/00
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/27/02 (3 MONTH DATE)	CMD	RJP/BSO	228.1012	09/979852 11/27/00
13-Jun-02	OFFICE ACTION RESPONSE DUE 7/13/02 (EXTENDIBLE BY 2 MONTHS)	CSK	RJP/CER	332.94387 CA	2209125
13-Jun-02	OFFICE ACTION RESPONSE DUE 7/4/02 (W/2 MO. EXT.)	CMD	RJP/CER	200.1034 CON2	09/930927 8/16/01
13-Jun-02	OFFICE ACTION RESPONSE DUE 7/4/02 (W/2 MO. EXT.)	CMD	RJP/CER	200.1102 CP2	09/992936 11/5/01
13-Jun-02	GRANT FEE DUE 6/22/02 (DEADLINE DATE)	CMD	RJP/DGK	200.1102 SG	
13-Jun-02	GRANT FEE DUE 6/22/02 (DEADLINE DATE)	CMD	RJP/DGK	200.1113 SG	
13-Jun-02	INVITATION TO CORRECT DEFECTS DUE 6/20/02	CMD	RJP/MMR	300.1016 PCT	PCTUS02/08306

REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/27/02 (3 MONTH DATE)	CMD	RJP/MMR	300.1002	09/785069 2/16/01			
13-Jun-02	FILE AMENDMENT (W/2 MO. EXT.) (NOP FILED 1/30/02)	CMD	RJP/RVZ	200.1124	09/161178 9/25/98			
13-Jun-02	FILE AMENDMENT (W/2 MO. EXT.) (NOP FILED 1/30/02)	CMD/RJP	RVZ	200.1124	09/161178 9/25/98			
13-Jun-02	INVITATION TO CORRECT DEFECTS DUE 6/14/02 (W/2 MO. EXT.)	CSK	SJM	218.1002 PCT	PCT/US02/00909			continued
13-Jun-02	INVITATION TO CORRECT DEFECTS DUE 6/18/02	CSK	SJM <i>CSK</i>	218.1014 PCT	PCT/US02/10611			OK?
13-Jun-02	RESPONSE TO PRELIM EXAMINATION DUE 6/15/02	LBD/CSK	SLA	540.1040 CN	00802513.4			<i>Done</i>
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/17/02	LBD	SLA	541.1002 EP	96909819.3			<i>Done</i>
13-Jun-02	FILE IN HONG KONG BY 8/13/02?	LBD/CSK	SLA	540.1040 CN	00802513.4			

REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
13-Jun-02	OFFICE ACTION RESPONSE & DRAWINGS DUE 6/18/02 (DEADLINE DATE)	CSK	WCG	487.1024	09/786088 6/4/01			
13-Jun-02	FINAL OFFICE ACTION RESPONSE DUE 6/18/02 (3 MONTH DATE)	CSK	WCG	487.1008	09/647703 1/29/01			
13-Jun-02	FINAL OFFICE ACTION RESPONSE & PRIORITY DOCUMENTS DUE 7/4/02 (3 MONTH DATE)	CSK	WCG	600.1037	09/621860 3/8/00			
13-Jun-02	OFFICE ACTION RESPONSE DUE (3 MONTH DATE)	CSK	WCG	600.1128	09/782455 2/12/01			
13-Jun-02	CONVENTION YEAR ENDS 9/13/02	CSK	WCG	529.1001	09/952133 9/13/01			
13-Jun-02	OFFICE ACTION RESPONSE DUE 6/27/02 (W/1 MO. EXT.)	CSK	WCG	600.1095	09/696812 10/26/00			
13-Jun-02	FILE MISSING PARTS DUE 6/17/02	CSK	WCG/JMD	521.1024	10/101786 3/20/02			
13-Jun-02	FILE NEW APPLICATION BY 6/24/02	CSK	WCG/JMD	600.1228	NEW APPLICATION			